

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

JESSICA JONES, et al.,

Plaintiffs,

v.

VARISITY BRANDS, LLC, et al.

Defendants.

Case No. 2:20-cv-02892-SHL-tmp

**DECLARATION OF RICHARD M. PAUL III IN SUPPORT OF
MOTION FOR ATTORNEY FEES AND EXPENSES**

I, Richard M. Paul III, under penalty of perjury, hereby declare:

1. I make this declaration in support of Plaintiffs' motion for an award of attorneys' fees and expenses in the above referenced case based on my personal knowledge and if called to testify to the contents hereof, I could and would competently do so.

2. PAUL LLP ("PLLP"), along with the Joseph Saveri Law Firm, LLP, Gustafson Gluek PLLC, and Turner Feild, PLLC (f/k/a Bruce Turner, PLLC), filed a Class Action Complaint in *Jones, et al. v. Varsity Brands LLC, et al.* on December 10, 2020 on behalf of Indirect Purchaser Plaintiffs.

3. Attorneys and staff at PAUL LLP have expended 2,805.4 hours litigating this case, specifically including factual investigation, drafting the complaint, briefing dispositive motions, propounding discovery and negotiating discovery disputes, taking depositions, drafting class certification pleadings, and negotiating settlement and preparing accompanying documentation.

4. Attached as Exhibit A is a true and correct summary of timekeepers at my office who have worked on this litigation that includes their position at PLLP, the number of hours devoted to the

case from inception through June 30, 2024, their hourly billing rates, and their respective lodestar. The summary shows a total of 2,805.4 hours work by PLLP attorneys and staff that equates to a lodestar of \$1,624,925.00. Also included in Exhibit A is a breakdown of hours and lodestar by specific task category. This summary was created based upon contemporaneous time records kept by each timekeeper at PLLP.

5. The lodestar amount summarized in Exhibit A is for work performed by attorneys and professional staff with my firm for the benefit of the classes in this litigation. The rates reflected are the usual and customary hourly rates used by PLLP in similar complex litigation matters. The work PLLP performed was wholly on a contingent basis and PLLP has not received any fees in connection with this matter.

6. Specifically, my firm was materially involved in the following tasks:

Pleadings

a. PLLP provided substantial input into the original complaint and the subsequent oppositions to Defendants' multiple motions to dismiss the complaint, including researching the arguments raised and analyzing and drafting Plaintiffs' response; most notably those of defendants Charlesbank Capital Partners LLC ("Charlesbank"); and Bain Capital Private Equity ("Bain"). Additionally, PLLP took the lead on drafting the Opposition to the U.S. All Star Federation, Inc.'s ("USASF's") motion to dismiss.

b. PLLP gave input and drafted various pretrial scheduling orders and participated in the legal analysis for all of the significant pleadings that were submitted to the Court.

c. When the parties filed *Daubert* motions, PLLP provided legal briefing and analysis for each affirmative and defensive brief. PLLP took the lead on all briefing for arguments directed at Plaintiffs' experts Drs. Heeb and Maki and Defendants' experts Dr. Murphy and Mr. Orszag.

d. PLLP was involved in the drafting of the Motion and Memorandum in Support of Class Certification and Reply in Support. In addition to conducting legal and factual research and drafting the briefs themselves, PLLP conducted extensive legal research on the jury instructions for each state where Plaintiffs had pled state law antitrust claims to attach to the Reply in Support of Class Certification, including creating summary exhibits for the Court to support predominance and superiority arguments. In addition, PLLP researched, drafted, and provided special verdict forms for each jurisdiction.

Written Discovery

e. PLLP participated in the written discovery process as well. Like all lead firms, PLLP devoted hundreds of hours to general and specific document review. Similarly, PLLP participated in the crafting of the Requests for Production of Documents served on Defendants.

f. Relatively early in the litigation, PLLP was actively involved in negotiating search terms and custodians for various Defendants.

g. PLLP was tasked with overseeing the review of the vast privilege logs for Bain, Charlesbank, and Jeff Webb. As an example, just one of Charlesbank's privilege logs included 7,920 entries. After review, PLLP took the lead on significant and extended meet and confers, which led to motions to compel that were drafted and argued by PLLP attorneys.

Depositions

h. Before depositions commenced, PLLP participated in negotiating and drafting the Deposition Protocol that was entered by this Court on November 15, 2021 (ECF No. 159). For this, PLLP also reviewed documents, researched the known custodians, researched applicable law, and put together the factual predicate necessary to seek an exception to the presumptive 10 deposition rule for briefing.

i. Between the related *Fusion*, *American Spirit*,¹ and *Jones* cases, there were over 50 depositions taken, the vast majority of which were Defendants' current and former employees. Where plaintiffs from multiple cases noticed a deposition, PLLP attorneys collaborated with *Jones* co-counsel and the other two classes' counsel in advance of the depositions to ensure no overlap in questioning and/or when appropriate, to provide indirect purchaser's questions to the lead questioning counsel to ask so as to be as efficient as possible.

j. PLLP played an active role and substantively participated in eight (8) Defendant depositions, including Damianne Albee (Vice President of International Operations for Varsity Brands and former Director for Varsity All Star); Jeffrey Fowlkes (Senior Advisor to John Newby at Varsity Spirit); Nicole Lauchaire (Senior Vice President of Corporate Communications for Varsity Spirit and Varsity Brands); Lynn Singer (Executive Director of Communications and Dance at USASF); and Ali Stangle (Interim Executive Director of the USASF). With regard to Jim Hill (former National Sales Director for Varsity); David Katz (Managing Director of Charlesbank); Thomas O'Rourke (former Principal at Bain), PLLP served as lead questioning counsel for all Plaintiffs, including *Fusion* and *American Spirit*.

k. For several of these depositions, and others where PLLP was not lead, PLLP was involved in the meet and confers and motion practice related to the propriety of, scope of, and timing of the depositions.

l. Additionally, PLLP was involved in drafting several Federal Rule of Civil Procedure 30(b)(6) deposition notices, most notably those for USASF, Bain, and Charlesbank. This effort included the review of thousands of documents to understand the parameters of each

¹ As used herein, "*Fusion*" refers to *Fusion Elite All Stars, et al., v. Varsity Brands, LLC, et al.*, Case No. 2:20-cv-02600-SHL-tmp, and "*American Spirit*" refers to *American Spirit And Cheer Essentials, Inc., et al., v. Varsity Brands, LLC, et al.*, Case No. 2:20-cv-02782-SHL-tmp.

corporate representative's potential testimony, drafting narrowly tailored topics, and significant strategy sessions, via phone, Zoom, and email, with co-counsel.

Trial Preparation

m. Early in the case, given its trial experience, PLLP was tasked with preparing the case for trial. Thus, even while discovery was ongoing, PLLP worked to prepare outlines of issues for trial; culling the evidence for documents and testimony to be used at trial; preparing for and participating in a jury focus group; and legal briefing for trial.

n. In coordination with the Joseph Saveri Law Firm, Paul LLP also played a substantial role in creating the Order of Proof, which was the *Jones* class's trial preparation document that began at the outset of discovery and provided the evidence obtained through discovery to prove Plaintiffs' claims.

o. Beginning in 2022, PLLP began trial preparations in earnest. By the time of settlement, PLLP had designated 40 depositions and had begun cutting the video to be played at trial.

p. PLLP also maintained a master witness list and had begun the process of ordering witnesses for Plaintiffs' case in chief. Likewise, PLLP maintained a trial exhibit list and had completed the majority of the arduous process of identifying those exhibits used in multiple depositions with multiple exhibit numbers and essentially de-duping the exhibit list for trial.

q. PLLP had also began creating demonstratives, drafting motions in limine, and working with co-counsel on the trial strategy and implementation plan.

Settlement

r. PLLP was involved in both the 2023 and 2024 mediations. For each, PLLP helped prepare the PowerPoint presentations for the mediator and defense counsel; and participated in the drafting of the mediation statements. PLLP also attended both mediations.

s. PLLP was intimately involved in drafting the Term Sheet, Settlement Agreement, and Preliminary Approval briefing. PLLP has also taken the lead working with the proposed settlement administrator to draft the direct notices and the publication notices to the classes as well as create the plan of allocation for paying the Damages Class Members.

7. Additionally, my firm has incurred a total of \$140,122.57 in expenses associated with the litigation of this case from inception through June 30, 2024. The travel-related expenses shown in the summary are related to depositions, court hearings, and mediation. Attached as Exhibit B is a summary of these costs by category. The expenses shown in the summary are an accurate reflection of the costs recorded contemporaneously in the financial records of my firm and have not been reimbursed.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Dated this 30th day of August, 2024, in Kansas City, Missouri.

/s/ Richard M. Paul III
Richard M. Paul III

SIGNATURE ATTESTATION

I hereby attest that I have on file all holographic signatures corresponding to any signatures indicated by a conformed signature (/s/) within this e-filed document.

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 3, 2024 in San Francisco, California.

By: /s/ Joseph R. Saveri
Joseph R. Saveri

EXHIBIT A

Timekeeper	Position	Rate	Hours	Lodestar
Rick Paul	Partner	1100	505.6	\$ 556,160.00
Ashlea Schwarz	Partner	850	309.6	\$ 263,160.00
Sean Cooper	Partner	575	404.2	\$ 232,415.00
Kayla Knipfel	Associate	475	472.4	\$ 224,390.00
Steven Rowe	Associate	375	511.5	\$ 191,812.50
David Bodenheimer	Associate	450	37.3	\$ 16,785.00
George Brand	Associate	325	28.3	\$ 9,197.50
Kyle Taylor	Associate	325	3	\$ 975.00
Jack Brown	Paralegal	185	25.1	\$ 4,643.50
Kendra John	Paralegal	300	20.1	\$ 6,030.00
Abi Dunsing	Paralegal	250	73	\$ 18,250.00
Mara Peek	Paralegal	250	81.8	\$ 20,450.00
Mari Stewart	Paralegal	250	12.3	\$ 3,075.00
Maria Dunn	Paralegal	250	3.7	\$ 925.00
Michaela Cussen	Paralegal	250	122.6	\$ 30,650.00
Kaycee Croft	Paralegal	230	5.5	\$ 1,265.00
Pat Neal	Paralegal	235	118.9	\$ 27,941.50
Sarah Bentley	Paralegal	230	25.5	\$ 5,865.00
Olivia Finley	Law Clerk	200	1.1	\$ 220.00
Megan Duffield	Law Clerk	250	39.9	\$ 9,975.00
Wyat Suhr	Law Clerk	185	4	\$ 740.00
Grand Total		1100	2805.4	\$ 1,624,925.00

Task	Hours	Lodestar
Case Assessment, Development and Administration	76.9	\$37,196.50
Experts	87.3	\$76,607.50
Mediation and Settlement	218.1	\$189,647.50
Pre-Trial Pleadings and Motions	509.9	\$299,810.00
Discovery	1436.7	\$662,397.50
Trial Preparation and Trial	476.5	\$359,266.00
Total	2805.4	\$1,624,925.00

EXHIBIT B

ABA Code	Category	Amount
E101	In House Copying	\$ 4,491.13
E102	Outside Printing	\$ 6,966.10
E106	Online Research	\$ 1,873.11
E107, E108	Delivery Services / Postage	\$ 676.26
E110	Out of Town Travel	\$ 12,832.87
E111	Meals	\$ 2,121.77
E112	Court Fees	\$ 577.50
E115	Deposition Costs	\$ 438.87
E124	Miscellaneous	\$ 972.20
E124	Assessment / Litigation Fund	\$ 109,172.76
		\$ 140,122.57